

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0334P

**Sales and Use Tax
Calendar Years 1996, 1997, 1998**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on March 18, 1999.

Taxpayer failed to self-assess and remit use tax in 1996 and 1997 and began making use tax payment in 1998. Taxpayer also failed to charge customers sales tax for short-term club rent.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty, as it began self assessing use tax in April 1998 when it came to their attention that it was not correctly being charged sales tax by all vendors. Due to its conscientious efforts to correctly remit all tax due, taxpayer requests a waiver of the penalty associated with the audit.

Taxpayer's audit revealed that no use tax accrual system was in place for 1996 and 1997. Taxpayer failed to self-assess as required by statute. 45 IAC 2.2-3-20 clearly states that all purchases of tangible personal property which are stored, used, or consumed in the state of Indiana are subject to the tax.

The taxpayer was negligent in failing to self assess use tax due and failed to make corrections once it was aware of its noncompliance.

FINDING

Taxpayer's protest is denied.